36. (Amended) The pharmaceutical composition of claim 34 wherein the monoclonal antibody is a human antibody.

37. (Amended) The pharmaceutical composition of claim 34 wherein the monoclonal antibody is a chimeric antibody.

38. (Amended) The pharmaceutical composition of claim 34 wherein the monoclonal antibody is a humanized antibody.

REMARKS

Entry of the foregoing amendments and reconsideration of the amended claims in light of the remarks that follow, are respectfully requested.

The claims are amended to include the limitation that the light chain V region of the recited anti-phosphatidyl serine antibody is also present in the light chain of an antibody that recognizes e-aminocaprioic acid, and the heavy chain V region of the recited antibody is also present in the heavy chain of an antibody that recognizes p-azaphenylarsanate. Support for the amendment is found in the specification in the paragraph bridging pages 34-35. This amendment is consistent with Applicants' previous Election reply. In addition, claims 35-38 are amended to ensure proper antecedent basis. This amendment does not add new matter.

Rejection of the claims as being under 35 U.S.C. §102(e) or (b):

Claims of the present application stand rejected as being anticipated under 35 U.S.C. §102(e) or (b) as follows:

(a) Claims 29-38 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 09/805,217 (Thorpe et al.);

(b) Claims 29 and 34 were rejected under 35 U.S.C. §102(b) as being anticipated by Vogt et al.;

(c) Claims 29 and 34 were rejected under 35 USC §102(b) as being anticipated by Umeda et al.; and

(d) Claims 29 and 34 were rejected under 35 USC §102(b) as being anticipated by Rote et al.

The claims are amended to recite an antibody that binds phosphatidyl serine, the light chain V region of which is also present in the light chain of an antibody that recognizes e-aminocaprioic acid, and the heavy chain V region of which is also present in the heavy chain of an antibody that recognizes p-azaphenylarsanate. None of the cited prior art references discloses or suggests an anti-phosphatidyl serine antibody having the structural composition of the claimed antibody. Accordingly, the cited prior art references do not anticipate the claimed invention, and withdrawal of the rejections under 35 USC §102(e) and (b) is respectfully requested.

Rejection of the claims under 35 U.S.C. §103(a):

Claims of the present application stand rejected under 35 U.S.C. §103(a) as being as being obvious in view of Rote et al., or Umeda et al., or Vogt et al., further in view of Thorpe et al.

As discussed above, the present claims are drawn to an anti-phosphatidyl serine antibody that has a light chain V region that is also present in the light chain of an antibody that recognizes e-aminocaprioic acid, and has a heavy chain V region that is also present in the heavy chain of an antibody that recognizes p-azaphenylarsanate. None of the cited references, alone or in combination, discloses or suggests the claimed invention. Moreover, at the time the invention was made, it would have been impossible to predict that, of all of the possible combinations of light and heavy chain amino acid sequences, an antibody comprising a light chain V region that is present in the light chain of an anti-e-amino-caprioic acid antibody, and a heavy chain V region that is present in the heavy chain of an anti-p-azaphenylarsanate antibody, would combine to form an antibody that binds specifically to phosphatidyl serine. Under U.S. patent law, a suggestion or motivation to combine various teachings of prior art references to obtain the claimed invention, and a reasonable expectation that the combination will operate successfully, must be found in the prior art, not in applicant's disclosure. See M.P.E.P. § 2143, Basic Requirement of a *Prima Facie* Case of Obviousness, citing In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Given that the claimed invention is neither described nor suggested by the prior art, and that those

skilled in the art in view could not have predicted that the claimed invention would operate successfully, the Applicants respectfully request that the rejection of the claims under 35 U.S.C. 103(a) be withdrawn.

Based on the foregoing, allowance of this application is believed to be in order. A Notice to that effect is respectfully solicited.

Respectfully submitted,
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APPENDIX

The claims are amended as shown below:

29. (Amended) An isolated unconjugated monoclonal antibody that specifically binds phosphotidyl serine and that induces complement dependent cell-mediated cytotoxicity against a human tumor cell that expresses phosphotidyl serine;

wherein the light chain V region of said antibody is also present in the light chain of an antibody that recognizes e-aminocaprioic acid, and

wherein the heavy chain V region of said antibody is also present in the heavy chain of an antibody that recognizes p-azaphenylarsanate.

30. The monoclonal antibody of claim 29 which is a primate antibody.

31. The monoclonal antibody of claim 29 which is a human antibody.

32. The monoclonal antibody of claim 29 which is a chimeric antibody.

33. The monoclonal antibody of claim 29 which is a humanized antibody.

34. A pharmaceutical composition containing a monoclonal antibody according to claim 29.

35. (Amended) The [monoclonal antibody] pharmaceutical composition of claim 34 [which] wherein the monoclonal antibody is a primate antibody.

36. (Amended) The [monoclonal antibody] pharmaceutical composition of claim 34 [which] wherein the monoclonal antibody is a human antibody.

37. (Amended) The [monoclonal antibody] pharmaceutical composition of claim 34 [which] wherein the monoclonal antibody is a chimeric antibody.

38. (Amended) The [monoclonal antibody] pharmaceutical composition of claim 34 [which] wherein the monoclonal antibody is a humanized antibody.